In the Supreme Court of the United States

OCTOBER TERM, 1945

No. 358

TWINBORO CORPORATION, PETITIONER

v.

COMMISSIONER OF INTERNAL REVENUE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE RESPONDENT IN OPPOSITION

OPINIONS BELOW

The memorandum opinion of the Tax Court (R. 9–32) is not reported. The opinion of the Circuit Court of Appeals (R. 72–73) is reported at 149 F. 2d 574.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered on May 23, 1945 (R. 74), and the petition for a writ of certiorari was filed on August 22, 1945. The jurisdiction of this Court

665720—45

is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTION PRESENTED

The question presented is the same as that involved in the first issue set forth in the Commissioner's brief in opposition in *Winter Realty & Construction Co.* v. *Commissioner,* No. 356, this Term.

STATUTES AND REGULATIONS INVOLVED

The statutes and Regulations involved are the same as those in No. 356 and are set forth in the Appendix to the Commissioner's brief in opposition in that case.

STATEMENT

The facts in this case with respect to the issue presented, in all material respects, parallel those involved in No. 356. Accordingly, the statement of facts has been omitted.

ARGUMENT

The reasons set forth in the Commissioner's brief in opposition in No. 356 why, with respect to the identical issue involved in that case, the writ of certiorari should be denied apply with equal force to this case and need not be repeated here.

It should be noted that an additional issue was presented below which was not involved in No.

356, namely, whether the Tax Court was correct in its conclusion that certain property acquired by the taxpayer in 1930 and 1931 was not purchased with money received by the taxpayer in 1932 and later as compensation for the condemnation of certain of its property. The petition for certiorari does not seek further review of the affirmance by the Circuit Court of Appeals of the Tax Court on this question.

CONCLUSION

The petition for a writ of certiorari should be denied for the reasons set forth in the Commissioner's brief in opposition in No. 356 with respect to the identical issue involved in that case.

Respectfully submitted.

HAROLD JUDSON,
Acting Solicitor General.
SAMUEL O. CLARK, JR.,
Assistant Attorney General.
SEWALL KEY,
ROBERT N. ANDERSON,
HILBERT P. ZARKY,
Special Assistants to the Attorney General.

SEPTEMBER 1945.

U. S. GOVERNMENT PRINTING OFFICE: 1945